

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2009 MAY 13 AM 10:12

HENRY WARING SMITH,

Plaintiff,

v.

CYNTHIA NELSON, Warden,

Defendant.

CLERK *M. Daniel*
SO. DIST. OF GA.

CASE NO. CV407-114

O R D E R

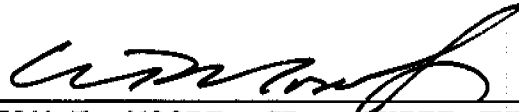
Before the Court is Plaintiff Henry Waring Smith's Motion for a Certificate of Appealability (Doc. 21). For the following reasons, Plaintiff's Motion is **DENIED**.¹

Pursuant to 28 U.S.C. § 2253(c), an appeal may not be taken in this case unless the Court issues a certificate of appealability. This certificate may issue only if Plaintiff makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). To meet this standard for a claim dismissed on procedural grounds, Plaintiff must show that "jurists of reason" would find (1) a valid constitutional claim and (2) that the procedural ruling was debatable. Slack v. McDaniel, 529 U.S. 473, 484 (2000).

¹ Because the Court denies Plaintiff's Motion for a Certificate of Appealability, his Motions to Proceed In Forma Pauperis on Appeal (Docs. 22 & 23) are **DISMISSED AS MOOT**.

After careful consideration, this Court finds that Plaintiff cannot meet the above standards. Accordingly, Plaintiff's Motion for a Certificate of Appealability is DENIED.

SO ORDERED this 13th day of May, 2009.



WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA